

REMARKS

1. In order for different prior art references to be combined to reject a claim, the references have to disclose or suggest the combination recited in the claim. *ACS Hospitality Systems, Inc. v. Montefiore Hospital*, 732 F.2d 1572, 221 USPQ 929 (Fed. Cir. 1984). As the Federal Circuit indicated in the *ACS* case at 732 F.2d 1572, 1577, 221 USPQ 929, 933:

“Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention absent some teaching or suggestion supporting the combination. Under Section 103, teaching of references can be combined only if there is some suggestion or incentive to do so.”

See also *In re Fine*, 837 F.2d 1071, 5 USPQ 2d 1596, (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ 2d 1941 (Fed. Cir. 1992) in support of the holding in the *ACS* case.

None of the references cited by the Examiner to reject the claims in this application discloses or suggests certain of the features recited in the claims. These features are specified above for each of the claims in the application. This has been discussed above in some detail. The references cannot accordingly be combined to reject the claims.

2. On August 1, 2006, the Examiner discussed with Mr. John Fitzgerald, a partner in Fulwider Patton, changes proposed by the Examiner in the claims to provide an allowance of the application.

On August 7, 2006, the Examiner and Ellsworth Roston, of counsel in the Fulwider firm, agreed upon compromise language in claim 10.

Thereafter the Examiner submitted in an e-mail the compromise language in claim 10 and suggested to Mr. Roston that similar changes be made in claims 1, 21, 27 and 32.


This amendment incorporates the proposed changes in claims 1, 21, 27 and 32 that are consistent with the agreed upon changes in claim 10. The amendment also includes claim changes to correct informalities noticed by Mr. Roston in preparing this amendment. The amendment does not involve changes that broaden the scope of the claims.

3. In view of the above, reconsideration and allowance of the application is respectfully requested.

4. Please charge any costs or credit any fees in connection with this application to Account No. 06-2425.

Respectfully submitted,

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